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THE HONORABLE JUDGE KAREN A. OVERSTREET

**UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE**

In Re:

JAYNA COLE

Debtor,

JAYNA COLE

Plaintiff,

vs.

SPRINGLEAF FINANCIAL SERVICES

Defendant

**ADVERSARY COMPLAINT  
SEEKING LIEN AVOIDANCE  
OF WHOLLY UNSECURED  
LIEN**

CASE No. 14-18396

Adversary No.: \_\_\_\_\_

**ADVERSARY COMPLAINT SEEKING  
LIEN AVOIDANCE OF WHOLLY UNSECURED LIEN**

NOW COMES, The Plaintiff, Jayna Cole, by and through her attorney Clayton Cook-Mowery, and for the purpose of this complaint alleges the following:

1. This adversary proceeding arises out of Plaintiff's Chapter 13 case now pending before this Court. This Court has jurisdiction to consider the matters herein pursuant to 28 U.S.C. §§ 157 and 1334 and 11 U.S.C § 506 and 1322. This is a core proceeding under 28 U.S.C. §§ 157(b)(2)(A), (B), (K), and (O).

**ADVERSARY COMPLAINT SEEKING  
LIEN AVOIDANCE OF  
WHOLLY UNSECURED LIEN - 1 of 3**

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1 2. Plaintiff is a natural persons living in Snoqualmie, King County, Washington.

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3 3. Defendant Springleaf Financial Services (hereinafter "Springleaf") is a company licensed to do  
4 business in Washington.

5 4. Plaintiff is the owner of a parcel of real estate located in Arlington, Snohomish County,  
6 Washington commonly described as 10709 124th St NE, Arlington WA 98223.

7  
8 5. Prior to the filing of this bankruptcy case, Plaintiff allegedly executed a second lien in favor of  
9 Springleaf, evidencing a loan and recorded in the Snohomish County, Washington real estate  
10 records.

11 6. On the date of filing of Plaintiff's Chapter 13 Petition, November 18, 2014 Plaintiff was  
12 allegedly indebted to Springleaf, or successors and/or assigns under such instrument in the  
13 approximate sum of \$5,288.65 for the second lien. See Claim 3-1.

14 7. On the date of filing of Plaintiff's Chapter 13 Petition, the value of Plaintiffs' real property  
15 described above was \$132,300. See Schedule A. On that date, the debt owing to the senior  
16 lienholder was approximately \$168,043.29. See Schedule D. Total senior liens to Defendant's  
17 totaled at least \$168,043.29.

18 8. No equity in Plaintiff's real property exists to which Defendant's lien can attach. Therefore,  
19 pursuant 11 U.S.C. §§ 506 and 1322, and in re Zimmer, 313 F.3d 1220 (9th Cir. 2002), Plaintiff is  
20 entitled to "strip off" the lien held by Defendant so that such lien becomes voided and no longer  
21 remains a lien against Plaintiff's real property.

22  
23  
24 **PRAYER FOR RELIEF**

25  
26 WHEREFORE, Plaintiff prays for a judgment and order voiding the Defendant's deed of trust,  
27 adjudging that the note is no longer secured by the deed of trust against the above-described real  
28 property unless this Chapter 13 case is later dismissed prior to discharge, and for such other and  
further relief as this Court might deem just and equitable.

**ADVERSARY COMPLAINT SEEKING  
LIEN AVOIDANCE OF**

**WHOLLY UNSECURED LIEN. - 2 of 3**

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1 Respectfully submitted this 23<sup>rd</sup> day of March, 2015.  
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4

5 /s/ Clayton Cook-Mowery

6 Clayton Cook-Mowery, WSBA #41110

7 Attorney for Plaintiff/Debtor  
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